

## § 5f.103-1

## 26 CFR Ch. I (4-1-04 Edition)

AUTHORITY: 26 U.S.C. 7805. Secs. 5f.103-1 and 5f.163-1 also issued under 26 U.S.C. 103(j), 26 U.S.C. 163(f), and 96 Stat. 595.

### § 5f.103-1 Obligations issued after December 31, 1982, required to be in registered form.

(a) *Registration; general rule.* Interest on a registration-required obligation (as defined in paragraph (b) of this section) shall not be exempt from tax notwithstanding section 103 (a) or any other provision of law, exclusive of any treaty obligation of the United States, unless the obligation is issued in registered form (as defined in paragraph (c) of this section).

(b) *Registration-required obligation.* For purposes of this section, the term “registration-required obligation” means any obligation except any one of the following:

(1) An obligation not of a type offered to the public. The determination as to whether an obligation is not of a type offered to the public shall be based on whether similar obligations are in fact publicly offered or traded.

(2) An obligation that has a maturity at the date of issue of not more than 1 year.

(3) An obligation issued before January 1, 1983. An obligation first issued before January 1, 1983, shall not be considered to have been issued on or after that date merely as a result of the existence of a right on the part of the holder of such obligation to convert the obligation from registered form into bearer form, or as a result of the exercise of such a right.

(4) An obligation described in § 5f.163-1 (c) (relating to certain obligations issued to foreign persons).

(c) *Registered form*—(1) *General rule.* An obligation issued after January 20, 1987, pursuant to a binding contract entered into after January 20, 1987, is in registered form if—

(i) The obligation is registered as to both principal and any stated interest with the issuer (or its agent) and transfer of the obligation may be effected only by surrender of the old instrument and either the reissuance by the issuer of the old instrument to the new holder or the issuance by the issuer of a new instrument to the new holder,

(ii) The right to the principal of, and stated interest on, the obligation may

be transferred only through a book entry system maintained by the issuer (or its agent) (as described in paragraph (c)(2) of this section), or

(iii) The obligation is registered as to both principal and any stated interest with the issuer (or its agent) and may be transferred through both of the methods described in subdivisions (i) and (ii).

(2) *Special rule for registration of a book entry obligation.* An obligation shall be considered transferable through a book entry system if the ownership of an interest in the obligation is required to be reflected in a book entry, whether or not physical securities are issued. A book entry is a record of ownership that identifies the owner of an interest in the obligation.

(d) *Effective date.* The provisions of this section shall apply to obligations issued after December 31, 1982, unless issued on an exercise of a warrant for the conversion of a convertible obligation if such warrant or obligation was offered or sold outside the United States without registration under the Securities Act of 1933 and was issued before August 10, 1982.

(e) *Special rules.* The following special rules apply to obligations issued after January 20, 1987, pursuant to a binding contract entered into after January 20, 1987.

(1) An obligation that is not in registered form under paragraph (c) of this section is considered to be in bearer form.

(2) An obligation is not considered to be in registered form as of a particular time if it can be transferred at that time or at any time until its maturity by any means not described in paragraph (c) of this section.

(3) An obligation that as of a particular time is not considered to be in registered form by virtue of subparagraph (2) of this paragraph (e) and that, during a period beginning with a later time and ending with the maturity of the obligation, can be transferred only by a means described in paragraph (c) of this section, is considered to be in registered form at all times during such period.

(f) *Examples.* The application of this section may be illustrated by the following examples:

*Example (1).* Municipality X publicly offers its general debt obligations to United States persons. The obligations have a maturity at issue exceeding 1 year. The obligations are registration-required obligations under § 5f.103-1(b). When individual A buys an obligation, X issues an obligation in A's name evidencing A's ownership of the principal and interest under the obligation. A can transfer the obligation only by surrendering the obligation to X and by X issuing a new instrument to the new holder. The obligation is issued in registered form.

*Example (2).* Municipality Y issues a single obligation on January 4, 1983 to Bank M provided that (i) Bank M will not at any time transfer any interest in the obligation to any person unless the transfer is recorded on Municipality Y's records (except by means of a transfer permitted in (ii) of this example) and (ii) interests in the obligation that are sold by Bank M (and any persons who acquire interests from M) will be reflected in book entries. C, an individual, buys an interest in Y's obligation from Bank M. Bank M receives the interest or principal payments with respect to C's interest in the obligation as agent for C. Bank M records interests in the Municipality Y obligation as agent of Municipality Y. Any transfer of C's interest must be reflected in a book entry in accordance with Bank M's agreement with Municipality Y. Since C's interest can only be transferred through a book entry system maintained by the issuer (or its agent), the obligation is considered issued in registered form. Interest received by C is excludable from gross income under section 103(a).

*Example (3).* Municipality Z wishes to sell its debt obligations having a maturity in excess of 1 year. The obligations are sold to Banks N, O, and P, all of which are located in Municipality Z. By their terms the obligations are freely transferable, although each of the banks has stated that it acquired the obligations for purposes of investment and not for resale. Obligations similar to the obligations sold by Municipality Z are traded in the market for municipal securities. The obligations issued by Municipality Z are of a type offered to the public and are therefore registration-required under § 5f.103-1 (b).

*Example (4).* Corporation A issues an obligation that is registered with the corporation as to both principal and any stated interest. Transfer may be effected by the surrender of the old instrument and either the reissuance by the issuer of the old instrument to the new holder or the issuance by the issuer of a new instrument to the new holder. The obligation can be converted into a form in which the right to the principal of, or stated interest on, the obligation may be effected by physical transfer of the obligation. Under § 5f.103-1 (c) and (e), the obligation is not considered to be in registered form and is considered to be in bearer form.

*Example (5).* Corporation B issues its obligations in a public offering in bearer definitive form. Beginning at X months after the issuance of the obligations, a purchaser (either the original purchaser or a purchaser in the secondary market) may deliver the definitive bond in bearer form to the issuer in exchange for a registration receipt evidencing a book entry record of the ownership of the obligation. The issuer maintains the book entry system. The purchaser identified in the book entry as the owner of record has the right to receive a definitive bearer obligation at any time. Under § 5f.103-1 (c) and (e), the obligation is not considered to be issued in registered form and is considered to be issued in bearer form. All purchasers of the obligation are considered to hold an obligation in bearer form.

*Example (6).* Corporation C issues obligations in bearer form. A foreign person purchases a definitive bearer obligation and then sells it to a United States person. At the time of the sale, the United States person delivers the bearer obligation to Corporation C and receives an obligation that is identical except that the obligation is registered as to both principal and any stated interest with the issuer or its agent and may be transferred at all times until its maturity only through a means described in § 5f.103-1(c). Under § 5f.103-1(e), the obligation is considered to be in registered form from the time it is delivered to Corporation C until its maturity.

(g) *Cross-references.* See section 103A(j)(1) for the registration requirement of certain mortgage subsidy bonds issued after December 31, 1981, and § 6a.103A-1(a)(5) for the definition of registered form for such obligations issued after December 31, 1981, and on or before December 31, 1982. See also section 103(h) (requiring registration of certain energy bonds issued on or after October 18, 1979).

[T.D. 7852, 47 FR 51361, Nov. 15, 1982, as amended by T.D. 8111, 51 FR 15463, Dec. 19, 1986]

#### **§ 5f.103-2 Public approval of industrial development bonds.**

(a) *General rule.* An industrial development bond (within the meaning of § 1.103-7(b)(1) issued after December 31, 1982, shall be treated as an obligation not described in section 103(a) unless it is issued as part of an issue which satisfies the public approval requirement of section 103(k) and paragraph (c) of